

The Honorable Bill Shuster, Chairman
Subcommittee on Economic Development, Public Buildings and Emergency Management
Hearing on “The Future of the Federal Courthouse Construction Program: Results of a GAO
Study on the Judiciary’s Rental Obligations”
June 22, 2006

We are here today because over a year ago, the Judiciary requested a permanent rent exemption from the Federal Buildings Fund, claiming the rising GSA rent payment was creating a fiscal crisis. OMB and GSA reviewed the request and denied it.

Concerned about the effect a waiver would have on the Federal Buildings Fund, this Committee asked GAO in April of 2005, to review the reasons why the Judiciary’s rent increased, the impact of a permanent exemption from the Federal Buildings Fund, and how the Judiciary plans and accounts for rent increases. We wanted to know if the claims that the Judiciary was a ‘profit center’ for GSA were accurate.

Last June, GAO testified before this Subcommittee on the impact such an exemption would have on the Fund. This report satisfies the remaining issues – to review the reasons why the Judiciary’s rent increased and how the Judiciary plans and accounts for rent increases.

The Judiciary courthouse construction program has been of great concern to this subcommittee recently. As of May 2006, the Judiciary occupied over 41 million rentable square feet, more than triple the amount of space it occupied over 30 years ago. Over the last ten years, the Judiciary has received 46 new courthouses or annexes at a cost of \$3.4 billion from the Federal Buildings Fund. This increase in space can be easily characterized as a construction boom. With any increase in space, one should expect an increase in cost and the Judiciary’s construction boom resulted in just that.

The GAO investigation revealed a direct correlation between the increase in rent and the increase in space. The Judiciary’s rent increase for the five year period from 2000 to 2005 was 27%. Of that, 19% was directly attributed to space increases, and the remainder resulted from increased security and rising utility costs which are uniform throughout the federal government. The Judiciary’s construction boom has directly contributed to the Judiciary’s escalating rent costs.

In fact, this rent increase should come as no surprise to the Judiciary. Over 10 years ago the Judicial Conference recognized the need to reduce the future growth of overall space rental costs. A March 1996 plan by the Security, Space and Facilities Committee of the Judicial Conference recognized proposed solutions that could address rising rent costs including the release of excess space, courtroom sharing, updating space standards, and limiting Design Guide discretion. The Judiciary understood the ramifications of their building boom, yet implemented few of their own recommendations for reform. Failures over the past 10 years to address these growing problems have culminated in this request for a permanent rent exemption. The Judiciary failed to manage their space requirements and has asked for the equivalent of a ‘get out

of jail free' card. The GAO findings only solidify my, and I believe this Committee's stance against such a rent waiver.

Additionally, GSA has made numerous proposals to the Judiciary to help lower rent and cut costs. I am also aware that the majority of these proposals were rejected by the Judiciary. I recommend in addition to suggestions made today by members of this subcommittee and those testifying that the Judiciary reevaluate their stance on these GSA cost saving proposals.

The Federal Buildings Fund was created not only to maximize efficiencies in the construction and maintenance of buildings, but also to ensure that the occupants acquired new space in a responsible manner. Tenants must make choices and balance their demand for space with their other expenses. By law, GSA charges all tenants, including the Judiciary, commercially equivalent charges for the space they occupy.

I like to compare this to a family's decision to purchase a home. The family may love the 10,000 square foot mansion, but may only be able to afford the more conservative 3,000 square foot home. The family is not driven by desire alone. Financial restraints weigh in and the family ends up in a home driven by space needs and economic reality. The Federal Buildings Fund is intended to force the same economic considerations by agencies and prevent poor space utilization and a drain on the taxpayer.

The overarching finding of the GAO report is the fact that the Federal Buildings Fund worked exactly as intended. GAO, GSA, and this Committee are well aware of this fact.

I am also concerned with claims of GSA errors in rent bills and inaccurate appraisals. The Judiciary claims over \$38 million in overcharges and faulty appraisals. GSA should not be overcharging tenants and if appraisals are inaccurate, they too must be corrected. The government's professional landlord should strive for excellence. I am eager to hear how the GSA is addressing these concerns and solving the problem.

I am pleased to see the Federal Building Fund working as originally intended. I'm certain its creators would be pleased with GAO's findings and proof that the fund is providing a check to the Judiciary's growth through economic restraint. To provide the Judiciary with a rent exemption would be disastrous to the Federal Buildings Fund and the government's ability to control its real property needs.